

24. A system comprising:

a container containing a cosmetic product; and

the object of claim 22 on the container, wherein the object is configured in the form of an accessory intended to be associated with the container. --

REMARKS

Applicants have added new claims 22-24. These claims are fully supported by the originally-filed disclosure.

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 between Group I, Claims 1-13; Group II, Claims 14 and 15; and Group III, Claims 16-21. Applicants respectfully disagree with the restriction requirement and respectfully request that the Examiner modify this requirement so that all of pending claims 1-24 may be examined together, in an efficient manner.

Applicants respectfully submit that the restriction requirement between claim Groups I, II, and III should be withdrawn because it would not constitute an undue burden to search the subject matter of claim Groups I, II, and III together. "If the search and examination of an entire application can be made without serious burden the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." M.P.E.P. § 803 (emphasis added). Applicants submit that the search required to properly examine any one of Groups I, II, and III would necessarily involve an over-lapping search for all of Groups I, II, and III. The Examiner has not shown that a serious burden would exist if all of these Groups would be examined together. Furthermore, Applicants have added new product-by-process claims 22-24, which would require a substantially common search in all of the subject matter areas

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that would more likely be searched for each of Groups I, II, and III. Consequently, the requirement for restriction between Groups I, II, and III should be withdrawn.

Even if the Examiner refuses to withdraw the restriction requirement between all of the claim groupings, Applicants submit that, at a minimum, the Examiner should withdraw the restriction between Groups I and II because the Examiner has improperly restricted these claim groupings in an "intermediate-final product" restriction requirement. As set forth in M.P.E.P. § 806.04(b), a proper intermediate-final product restriction requires claims that have a "mutually exclusive species relationship." The M.P.E.P. at § 806.04(f) sets forth a general test for determining the presence of a mutually exclusive species relationship, namely "one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first." Since all of claims 1-15 are "readable on" the exemplary embodiment (i.e., species) shown in Fig. 4, for example, Applicants submit that there is no mutually exclusive species relationship as required in the M.P.E.P. Since there is a lack of this required mutual exclusivity, the intermediate-final product restriction requirement between claims 1-13 of Group I and claims 14 and 15 of Group II is improper and should be withdrawn.

M.P.E.P. § 806.04(b) indicates that in a true intermediate-final product restriction "[t]ypically, the intermediate loses its identity in the final product." Since the subject matter of each of claims 1-15 is present in at least the exemplary embodiment of Fig. 4, for example, there is no such loss of identity for that exemplary embodiment. Accordingly, this further illustrates the impropriety of the intermediate-final product restriction requirement and shows another reason why it should be withdrawn.

For at least the reasons mentioned above, Applicants respectfully request that the Examiner completely withdraw the restriction requirement between Groups I, II, and III. If the Examiner refuses to grant that request, then Applicants respectfully request that the Examiner modify the restriction requirement so that the intermediate-final product restriction requirement would be withdrawn and Applicants would be able to elect between the claims of Groups I and II (and new claims 22-24) together and the claims of Group III. If the Examiner agrees to this modification, Applicants provisionally elect to prosecute claims 1-15 and 22-24. If, on the other hand, the Examiner insists on either maintaining the entire restriction requirement or refusing to modify it as suggested, Applicants provisionally elect Group I with traverse and respectfully request that the Examiner make the restriction requirement final as soon as possible so that Applicants will have an opportunity to file a petition requesting the Group Director to review the restriction requirement.

The Office Action contains numerous apparent mischaracterizations of the invention(s) and/or the claims with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

The Examiner is invited to call Applicants' undersigned attorney (202-408-4244) if a telephone conversation would expedite the prosecution of the above-referenced application.

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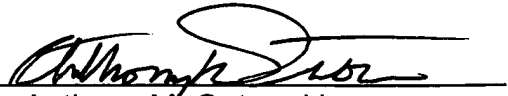
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Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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